

ESTTA Tracking number: **ESTTA363637**

Filing date: **08/17/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

| | |
|---------------------------------------|--|
| Name | Titan Capital Group III, LP |
| Granted to Date of previous extension | 08/18/2010 |
| Address | 405 Lexington Avenue51st Floor New York, NY 10174 UNITED STATES |
| Correspondence information | Craig M. Spierer McCue Sussmane & Zapfel, P.C. 521 Fifth Avenue 28th Floor New York, NY 10175 UNITED STATES cspierer@mszpc.com Phone:212 931-5500 |

Applicant Information

| | | | |
|------------------------|--|------------------------|------------|
| Application No | 77728597 | Publication date | 04/20/2010 |
| Opposition Filing Date | 08/17/2010 | Opposition Period Ends | 08/18/2010 |
| Applicant | Richey, Nathan R. 145 Park Place #3C Brooklyn, NY 11217 UNITED STATES | | |

Goods/Services Affected by Opposition

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|---|
| Class 036. All goods and services in the class are opposed, namely: Financial services, namely, private equity financing in the field of distressed assets |
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Grounds for Opposition

| | |
|--------------------------------------|----------------------------|
| Priority and likelihood of confusion | Trademark Act section 2(d) |
|--------------------------------------|----------------------------|

Mark Cited by Opposer as Basis for Opposition

| | | | |
|-----------------------------------|--|------------------|------|
| U.S. Application/Registration No. | NONE | Application Date | NONE |
| Registration Date | NONE | | |
| Word Mark | TITAN CAPITAL; | | |
| Goods/Services | financial services in the nature of operation and management of various funds. | | |

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|-------------|---|
| Attachments | Notice of Opposition - Titan Capital Funds.pdf (5 pages)(119447 bytes) |
|-------------|---|

Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

| | |
|-----------|------------------|
| Signature | /craigspierer/ |
| Name | Craig M. Spierer |
| Date | 08/17/2010 |

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of Trademark Application Serial No. 77/728,597

Filed May 4, 2009

For the Mark: **TITAN CAPITAL FUNDS**

Published in the Official Gazette on April 20, 2010

| | | |
|-------------------------------|---|-----------------------|
| ----- | X | |
| TITAN CAPITAL GROUP III, L.P. | : | |
| | : | |
| Opposer, | : | |
| | : | Serial No. 77/728,597 |
| v. | : | |
| | : | Opposition No: _____ |
| NATHAN R. RICHEY | : | |
| | : | |
| Applicant. | X | |

United States Patent and Trademark Office

Trademark Trial and Appeal Board

BOX TTAB

2900 Crystal Drive

P.O. Box 1451

Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

In the matter of pending application Serial No. 77/728,597, filed May 4, 2009, by Nathan R. Richey ("Applicant"), published in the Official Gazette on April 20, 2010, for the mark TITAN CAPITAL FUNDS, Titan Capital Group III, L.P. ("Opposer") states that Opposer believes it will be damaged by the registration of the above mark, has a real interest in the outcome of the proceeding and hereby gives notice of its opposition to the above application for registration on the following grounds:

1. On May 4, 2009 Applicant filed U.S. trademark application number 77/728,597 for TITAN CAPITAL FUNDS, an intent to use-based application in class 36

for “Financial services, namely, private equity financing in the field of distressed assets” (the “Application”).

2. Upon information and belief, Applicant has not used, or is not currently using the mark TITAN CAPITAL FUNDS in commerce.

3. Since on or about 2001 Opposer by itself, and through its related entities, subsidiaries, affiliated companies and predecessors in interest have and continue to use the mark TITAN CAPITAL and marks comprised in whole or in part with the words TITAN and TITAN CAPITAL (collectively, the “Titan Capital Marks”) in connection with financial services in the nature of operation and management of various funds, many of which utilize in whole or in part, the Titan Capital Marks as the name of the fund.

4. Opposer’s services and the funds bearing the Titan Capital Marks (“Titan Funds”) are widely respected and recognized in the financial industry on the global stage. The Titan Funds which have hundreds of millions of dollars under management, invest or trade in such securities including global equities, indices, fixed income, distressed assets and currencies. Opposer has been nominated for and won many industry wide awards.

5. Opposer has invested substantial resources in connection with the promotion, development and provision of its services, including the use of the Titan Capital Marks. Opposer employs only the top analysts and traders and the most talented financial minds in the industry, often hiring such employees away from the top tier banks and financial institutions worldwide. In addition to its New York offices, Opposer is set to open up an office in Hong Kong to expand its global presence.

6. The transactions, deals and news related to Opposer and the Titan Funds are extremely newsworthy in the financial industry, and as such articles related to the

same are routinely found in such top financial media outlets as *The Wall Street Journal*, *Forbes*, *Bloomberg News*, and *Reuters*. The activities of the Titan Funds are carefully studied by Opposer's competitors who seek to emulate its success. .

7. Opposer has spent considerable resources in connection with the development of its business, as well as the promotion, development and use of the Titan Capital Marks. Opposer's strong and consistent track record of profitability is reflected in the goodwill it has achieved with investors, and is invaluable when seeking to raise new funds. The goodwill associated therewith constitutes one of its primary assets.

8. Opposer has common law rights in the Titan Capital Marks and has developed valuable goodwill associated thereto.

9. Applicant's mark is confusingly similar to Opposer's Titan Capital Marks. Applicant's addition of the descriptive word FUND would not prevent the likely confusion, deception, and mistake among consumers as to the origin of Applicant's services should Applicant's mark be used or registered. Consumers will invest in or otherwise enter into financial transactions with Applicant in the mistaken belief that Applicant is Opposer or that Applicant's services originate with or are otherwise licensed, sponsored or authorized by Opposer.

10. Opposer's business and the Titan Capital Marks will be tarnished in the event Applicant's performance is not as successful as Opposer or in the event Applicant engages in any questionable acts, as consumers will confuse Applicant's results and misdeeds with that of Opposer and not invest in, or otherwise enter into transactions with Opposer.

11. The likelihood of confusion is heightened by the substantially identical nature of Applicant's and Opposer's services provided and similar channels of trade.

12. If Applicant is permitted to register the mark TITAN CAPITAL FUNDS, Opposer would be damaged and injured. Confusion or deception would result in damage to the Opposer.

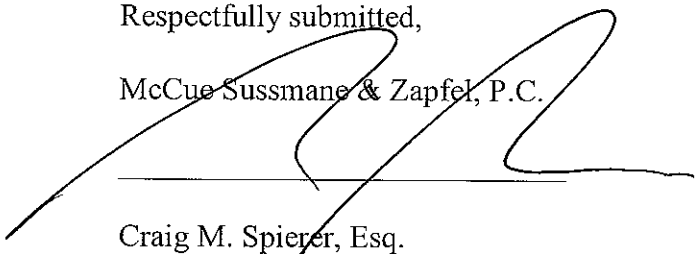
WHEREFORE, Opposer respectfully requests that this Notice of Opposition be sustained and the registration of TITAN CAPITAL FUNDS by Applicant be refused.

Opposer hereby appoints Craig M. Spierer and Ken Sussmane of the law firm of McCue Sussmane & Zapfel, P.C. and all attorneys associated with said firm to prosecute the above opposition with full power of substitution and revocation and to transact all business in the Patent and Trademark Office in connection therewith; correspondence address McCue Sussmane & Zapfel, P.C., 521 Fifth Avenue, 28th floor, New York, New York 10175, telephone (212) 931-5500; facsimile (212) 931-5508.

Dated August 17, 2010

Respectfully submitted,

McCue Sussmane & Zapfel, P.C.



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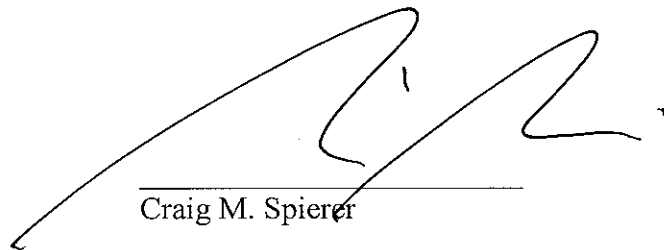
Attorneys for Opposer
Titan Capital Group III, L.P.

Certificate of Service

It is hereby certified, that I am over the age of eighteen years old and not a party to this action, and that on August 17, 2010 I caused a copy of the foregoing Notice of Opposition to be served upon the Applicant at the below address by placing is in a sealed envelope with postage thereon fully prepaid, in the United States mail:

Nathan R. Richey
145 Park Place, #3C
Brooklyn, New York 11217

Date: August 17, 2010



Craig M. Spierer